IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 1906 of 2006

Date of Decision: 30.11.2006

Surinder Pal Bansal ...Petitioner

Vs.

Bharat Sanchar Nigam Limited ...Respondent

CORAM Hon'ble Mr.Justice Vinod K.Sharma

Present: Mr.S.S.Bhinder, Advocate,
for the petitioner.

Ms.Pooja Setia, Advocate,
for the respondent.

Vinod K.Sharma, J. (Oral)

Present revision petition has been filed against an order vide which the application moved by the petitioner under Order 39 Rules 1 and 2 of the Code of Civil Procedure restraining the respondents No.1 and 2 allowing participation of respondent No.3 in the tender has been dismissed.

Learned Trial Court has granted injunction by observing that acceptance of tender of respondent No.3 was in contravention of terms and conditions of the tendered document as no draft was attached with the tender form and therefore, the same was liable to be rejected straightway without opening the financial bid. The learned lower Appellate Court reversed the finding by observing that respondent No.3 had in fact attached

the draft. It was, however, drawn in the wrong name and was merely a technical defect and therefore, he was permitted to replace that draft by new draft of subsequent date and therefore, it could not be said that there was any violation of terms and condition.

Thus, it is prima facie proved that the tender submitted by respondent No.3 was accompanied by a draft and only clerical mistake was allowed to be corrected subsequently. It would a matter of evidence to be decided by the Trial Court on appreciation of evidence as to whether the suit was likely to succeed or not. Be that as it may, prima facie the petitioner has no case to seek injunction against awarding of tender in favour of the plaintiff. Granting injunction would be rather against public interest and therefore, the learned lower Appellate Court was right in granting injunction.

Thus, there is no illegality in the impugned order which may call for interference by this court in revisional jurisdiction.

Dismissed.

(Vinod K.Sharma)
Judge

30.11.2006
rp